

DESC-APE

To all Potential Basic Ordering Agreements (BOA's) Offerors;

The Defense Energy Support Center - Electricity Team intends to establish BOA's with offerors, to provide electricity and ancillary services to DoD, DoE, VAMC, NASA, and other Federal Civilian installations in Connecticut, Delaware, the District of Columbia, Illinois, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas and Virginia. (Please see the attachment **Installations.xls** for a listing of the accounts that will be covered by this BOA.) The purpose of a BOA is to negotiate (**in advance**), any exceptions your company has to the **non-price** related terms and conditions contained in DESC's solicitation. Once negotiated, these terms and conditions will be incorporated into any supply contract awarded under the BOA. Companies without BOA's can still participate in DESC solicitations, however, terms and conditions would need to be negotiated **each and every time** the company offers on a solicitation. The delivery period for the BOA will be for a Base period of 36 months from May 2005 and ending in April 2008, with the option to extend for two 12 month periods from May 2008 through April 2009 and May 2009 through April 2010. The BOA will be reviewed annually to determine if any updates are necessary. To be eligible for award of a BOA, offerors must submit their exceptions and representations and certifications by the solicitation's closing date (see page 3 of the solicitation).

As requirements are received by DESC, a subsequent price submittal request will be sent to each offeror holding a BOA. Offerors holding BOA's will be advised to keep DESC up-to-date as to the states where they are licensed to do business. Through the use of BOA's, offerors need only keep their prices valid for 24 - 48-hours for each submittal.

If you have any questions, you may contact Lisa Kurtz at (703) 767-8532.

Sincerely,

JAMES V. SHILLINGFORD  
Contracting Officer

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30				1. REQUISITION NUMBER		<b>PAGE 1 OF 32</b>	
2. CONTRACT NUMBER		3. AWARD/EFFECTIVE DATE		4. ORDER NUMBER		5. SOLICITATION NUMBER <b>SP0600-05-R-0403</b>	
6. SOLICITATION ISSUE DATE <b>March 4, 2005</b>		7. FOR SOLICITATION INFORMATION CALL: <b>Lisa L. Kurtz (703) 767-8532</b> <b>Jim Shillingford (703) 767-9651</b>		8. OFFER DUE DATE/LOCAL TIME <b>See Page 2</b>			
9. ISSUED BY <b>Defense Energy Support Center</b> <b>Electricity Branch, Installation Energy</b> <b>8725 John J. Kingman Road, Suite 4950</b> <b>Fort Belvoir, VA 22060-6222</b> <b>Buyer/Symbol: Lisa Kurtz/DESC-APE</b> <b>Email: Lisa.Kurtz@dla.mil</b> <b>Phone: (703) 767-8532</b>		CODE <b>SP0600</b>		10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE % FOR <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> SMALL DISADV BUSINESS <input type="checkbox"/> 8(A) <b>NAICS: 221112</b> <b>SIZE STND: 4 million MWh</b>		11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input checked="" type="checkbox"/> SEE SCHEDULE <input type="checkbox"/> 13a. THIS CONTRACT IS RATED ORDER UNDER DPAS (15 CFR 700) 13b. RATING 14. METHOD OF SOLICITATION <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP	
15. DELIVER TO <b>See Schedule</b>		CODE		16. ADMINISTERED BY <b>See Block 9</b>		CODE	
17a. CONTRACTOR/OFFEROR BIDDER CODE		FACILITY CAGE CODE		18a. PAYMENT WILL BE MADE BY <b>See Paragraph B of Clause C800</b>			
Telephone No:		Fax No:		18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a. UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM			
19. ITEM NO.		20. SCHEDULE OF SUPPLIES/SERVICES		21. QUANTITY		22. UNIT	
23. UNIT PRICE		24. AMOUNT					
<b>See Attachment III</b>		<b>Basic Ordering Agreement for various DoD, DoE, VAMC, NASA, and other Federal Civilian Installations in Connecticut, Delaware, the District of Columbia, Illinois, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas and Virginia</b> <i>(Attach additional sheets as necessary)</i>		<b>Various</b>		<b>kWh</b>	
25. ACCOUNTING AND APPROPRIATION DATA						26. TOTAL AWARD AMOUNT (For Govt. Use Only)	
<input checked="" type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-3, FAR 52.212-4 AND 52.212-5 ARE ATTACHED. ADDENDA <input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED. <input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.							
<input checked="" type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN <b>1</b> COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS AND CONDITIONS SPECIFIED HEREIN.				<input type="checkbox"/> 29. AWARD OF CONTRACT: REFERENCE OFFER DATED _____ YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS: _____.			
30a. SIGNATURE OF OFFEROR/CONTRACTOR				31a. UNITED STATES OF AMERICA <i>(Signature of Contracting Officer)</i>			
30b. NAME AND TITLE OF SIGNER <i>(Type or Print)</i>		30c. DATE SIGNED		31b. NAME OF CONTRACTING OFFICER <i>(Type or Print)</i> <b>JAMES V. SHILLINGFORD</b>		31c. DATE SIGNED	
32a. QUANTITY IN COLUMN 21 HAS BEEN <input type="checkbox"/> RECEIVED <input type="checkbox"/> INSPECTED <input type="checkbox"/> ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED		32b. SIGNATURE OF AUTHORIZED GOVT. REPRESENTATIVE		32c. DATE		33. SHIP NUMBER	
						34. VOUCHER NUMBER	
						35. AMOUNT VERIFIED CORRECT FOR	
						36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	
						37. CHECK NUMBER	
						38. S/R ACCOUNT NO.	
						39. S/R VOUCHER NO.	
						40. PAID BY	
41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT		41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER		41c. DATE		42a. RECEIVED BY <i>(Print)</i>	
						42b. RECEIVED AT <i>(Location)</i>	
						42c. DATE REC'D (YY/MM/DD)	
						42d. TOTAL CONTAINERS	

**Continuation of SF1449, Block 8:**

This Basic Ordering Agreement (BOA) is open continuously for a period of one (1) year from date of issuance. The first date for Receipt of Offerors' Technical Data for **all** Installations will be:

Due by 12:00 p.m. EST on April 14, 2005.

**TECHNICAL DATA REQUIRED FROM ALL SUPPLIERS INTENDING TO OFFER INCLUDES:**

- 1) Certifications and Representations
- 2) Provide a list of any exceptions to the solicitation
- 3) The most recent annual report (a web address is acceptable)
- 4) The most recent 10K report (a web address is acceptable)
- 5) A brief description of the risk management practices to be employed during contract performance
- 6) A brief description of the sources of working capital for the offeror's power marketing activities
- 7) Résumés of the key personnel who would be assigned to administer a resultant contract
- 8) **State Marketing License data.** Date of Application and Date of Approval;
- 9) The documentation required in paragraph (a) of clause **L801 INSTRUCTIONS TO OFFERORS (ELECTRICITY) (DESC JAN 2003)**

**NOTE:** For Number 2, the Government reserves the right to **not** consider any exceptions received after the above referenced date.

NOTE: Additional closings for Receipt of Offerors' Technical Data for **all** Installations will occur over a period of one (1) year, following the issuance of this BOA, at **12:00 p.m. EST** on the following dates:

June 13, 2005; August 12, 2005; October 11, 2005; December 12, 2005

**TO VIEW ANY FEDERAL ACQUISITION REGULATION (FAR), OFFERORS MAY USE THE FOLLOWING WEBSITE:** <http://www.acqnet.gov/far/current/html/FARMTOC.html>.

For all Small Business issues, please call Ms. Kathy Williams at 703-767-9465 (Email: Kathy.S.Williams@dla.mil) or Ms. Valerie Oliver at 703-767-9686 (Valerie.Oliver@dla.mil).

## PART I

### 1. SUPPLIES TO BE FURNISHED (ELECTRICITY)

(a) The contract quantities shown below are best estimates only of the Government's requirements for the contract period. The Contractor shall furnish all labor, material, tools, equipment, and incidentals to supply and deliver electricity as defined in the STATEMENT OF WORK/SPECIFICATIONS (ELECTRICITY) clause. Contract performance shall be accomplished in accordance with the terms and conditions of this contract.

(b) As used throughout this solicitation/contract, **BOA** means Basic Ordering Agreement, **DO** means delivery order **kW** means kilowatt; **kWh** means kilowatt-hour; and **UDC** means Utility Distribution Company. Below are the acronyms and full names of each utility service area, and the applicable NERC region:

**Applicable NERC Regions:** NPCC – Northeast Power Coordinating Council, MACC – Mid-Atlantic Area Council, ECAR - East Central Area Reliability Coordination Agreement, MAIN - Mid-America Interconnected Network, Inc., and ERCOT - Electric Reliability Council of Texas, Inc.

**Utility Service Areas:**

Connecticut	Delaware	District of Columbia	Illinois
Connecticut Light & Power	Connectiv Power Delivery	Pepco	Commonwealth Edison
United Illuminating			Central Illinois Light Company
			Illinois Power
			Ameren-CIPS
			Ameren-CILCO
			Ameren-IP
			Mid-American

Maine	Maryland	Massachusetts	Michigan
Maine Public Service Company	Baltimore Gas & Electric	Nantucket Electric	Edison Sault Electric Company
Bangor Hydro Electric Company	Delmarva Power & Light Co.	Massachusetts Electric	Consumers Energy Company
Central Maine Power Company	Allegheny Power	Western Massachusetts Electric	The Detroit Edison Company
	Potomac Electric Power Co.	NSTAR Electric	

New Hampshire	New Jersey	New York	Ohio
Public Service of N.H.	Connectiv Power Delivery	Central Hudson	American Electric Power
Granite State Electric	JCP&L	Con Edison	Allegheny Power
	Public Service Electric & Gas	New York State Electric & Gas	Cincinnati Gas & Electric
	Rockland Electric	Niagara Mohawk	Dayton Power & Light
		Orange & Rockland Utilities	First Energy

		Rochester Gas & Electric	Toledo Edison
		Long Island Power Authority	Ohio Edison

Pennsylvania	Rhode Island	Texas	Virginia
Allegheny Power	Block Island Power	Texas Utilities	Allegheny Power
Duquesne Light Company	Narragansett Electric	Texas Central Company	Conectiv
First Energy (Met Ed, Penelec)		Texas North Company	Dominion Virginia Power
First Energy (PA Power Co.)		Centerpoint	
PA Power & Light Company			
Philadelphia Electric Co.			
UGI Corporation			
Wellsboro Electric Co.			

(c) The Government is soliciting offers for supply and transmission of electricity and ancillary services for military and various Federal Civilian activities in Connecticut, Delaware, the District of Columbia, Illinois, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas and Virginia. See the **Installation.xls** spreadsheet to view the accounts and installations covered by this BOA (**NOTE: this information is subject to change**).

(d) Specifics for each line item will be provided with each individual price submittal request. The information to be provided will include: Line Item Number, Location, Local Electric Utility, Current Tariff Rate, Utility Account Number, Contract Performance Period, Monthly Consumption and Demand Data, and Interval Data (where available).

(e) The Government is soliciting offers on either a Firm Fixed Price Requirements Type or a Requirements Type utilizing Locational Marginal Price (LMP) basis for electricity and transmission to the point of receipt, as specified in this solicitation.

(f) Offerors may submit prices on all some or none of the line items contained in the solicitation and may do so on a stand-alone basis and/or as one or more combinations of all-or-none offers. If an offeror chooses to submit more than one all-or-none offer, they may do so by submitting a separate price submittal for each. **NOTE: For Texas only, accounts are awarded on an installation basis, (for example, if you offer on Ft. Hood your offer must include pricing for all accounts on Ft. Hood). Offers that do not include pricing for all accounts at each installation will not be considered.**

(g) The Government is soliciting unit prices consistent with, and reflecting the structure of, the shopping credits established in the applicable tariffs. The following symbols have been established for the applicable line items:

- (s) Summer (ns) Non-Summer
- (sp) Summer On-Peak (nsp) Non-Summer On-Peak
- (sf) Summer Off-Peak (nsn) Non-Summer Intermediate
- (sn) Summer Intermediate (nsf) Non-Summer Off-Peak

NOTE 1: The definitions for symbols (s) Summer, (sp) Summer Peak, (sf) Summer Off Peak, (sn) Summer Intermediate, (ns) Non-Summer, (nsp) Non-Summer Peak, (nsn) Non-Summer Intermediate and (nsf) Non-Summer Off Peak are to be consistent with language set for by the UDC.

**(h) The Government may also solicit retail blocks with an index price structure for energy deficiencies and excesses outside of block levels. The blocks solicited are 7/24 and or 5/16: the index shall be based on the (specified with each price submittal request). Under this option, the Government reserves the right to purchase additional blocks of energy as necessary (under the Retail Block Purchase Option). Pricing for the additional blocks will be determined on an as needed basis.**

(DESC 52.207-9F76)  
B1.08 (DESC AUG 2002)

## 2. STATEMENT OF WORK/SPECIFICATIONS (ELECTRICITY)

(a) **STATEMENT OF WORK.** The Contractor shall furnish all labor, material, tools, equipment, and incidentals to supply and deliver electricity and any ancillary and/or incidental services required to deliver electricity to the point of delivery and for the scheduling and coordination of the delivery of electricity to the service point for each account under the contract. All quantities ordered by the Government shall be considered firm and guaranteed for delivery by the Contractor to the delivery point, and for scheduling and coordinating, for ultimate delivery to the service point for each account. Charges incurred as a result of the Contractor's failure to abide by the terms of the applicable Retail Access rules and/or the UDC Service Agreement shall be the responsibility of the Contractor. With the exception of any and all transmission and distribution related charges payable by the Government to the UDC under the applicable tariff for each account (unless said charges are the result of the Contractor's failure to perform in accordance with the contract), the Contractor is responsible for all costs associated with deliveries to the delivery point and the scheduling and coordination for delivery of electricity to the service point for each account under the contract. The Contractor shall be liable for any and all penalties and/or additional costs assessed to the Government for the nondelivery of the firm requirements in accordance with paragraphs (f) and (m) of the CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS clause.

### **FOR PRINCETON PLASMA PHYSICS LAB ACCOUNT NUMBER 02-62-05-09-50-68 ONLY:**

Princeton Plasma Physics Lab (PPPL) is capable of restricting its load under account number 02-62-05-09-50-68 to 4.5 MW within 30 minutes notice. The Contractor shall implement the PJM Economic Load Response Program for all load above this amount. As part of the voluntary load management program, the Contractor shall provide at least 30 minutes notice to PPPL prior to any load response. The notice to PPPL shall identify the specific time of the load response and its duration. The Contractor shall be responsible for all coordination between PPPL and the UDC. All charges to participate in the program shall be borne by the Contractor. The U.S. Government will not be responsible for any charges or costs incurred by the Contractor, even if no Defense Energy Support Center Basic Ordering Agreement curtailments are called and/or load is not reduced, throughout the life of any resultant contract. Daily load information shall be made available to the installation in a usable (Internet based or Excel based) format. The Contractor will manage the participation of the customer's facilities consistent with the guidelines established by PJM (PJM Economic Load Response Program).

### **NOTE: FOR NATIONAL INSTITUTES OF HEALTH ACCOUNT NUMBER 21222014057001**

**ONLY:** National Institutes of Health under account number 2730149008 (line item 2410a) recently added a 23 MW cogeneration facility. The facility is expected to have 21.8 MW net output and will run base loaded at all times (except the scheduled 22 days of shutdown –fall or spring, and any unscheduled shutdowns). As a result of the cogeneration system, NIH will also have a requirement of stand-by supply when shutdown. The Government will provide the contractor monthly output results from the cogeneration facility. Any reading below 21.8 MW will require the contractor to provide stand-by supply (for the difference between the actual monthly output and 21.8 MW) at LMP for energy and capacity at the Pepco Zone Price. For example actual monthly output is 20 MW, the contractor is required to provide 1.8 MW's at LMP for the Pepco Zone Price.

NOTE: Additional customer specific requirements may be added and will be specified prior to any pricing submittal deadline.

(b) **INVOICE AND PAYMENT:** The Government may utilize **either** Consolidated Billing or Dual Billing for the accounts awarded as a result of each delivery order. The billing method selected will depend upon the state's retail access rules and the customer's preference. Specific billing requirements will be provided prior to the any pricing submittal deadline. **Consolidated Billing** -all invoicing shall be based on meter quantities at the service point for each account. All costs associated with billing shall be included in the offered price. The Government will not pay any additional charges for billing services. The contractor may only invoice for charges allowed under the terms and conditions of the contract. The contractor/UDC shall provide a single bill for all accounts at each installation serviced under any contract. Each invoice shall be prepared in a manner consistent with both alternate supplier/UDC arrangements and the

requirements established by each state's utility regulatory agency/commission. **Dual Billing** - all invoicing shall be based on meter quantities at the service point for each account. All costs associated with billing shall be included in the offered price. The Government will not pay any additional charges for billing services. The contractor may only invoice for charges allowed under the terms and conditions of the contract. Each invoice shall be prepared in a manner consistent with and shall conform to the state's utility regulatory agency/commission requirements for Dual Billing. In addition to the requirements set forth in FAR 52.212-4 CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS Paragraph (g), each contractor invoice shall include the following information:

- (1) Installation name, Line Item, and individual account information (Account Number, Meter Number, and Service Location)
- (2) Billing period for each account
- (3) Total consumption for each account (broken down by Peak, Off-Peak, Semi-Peak if applicable)
- (4) Demand information for each account (broken down by Peak, Off-Peak, Semi-Peak if applicable)
- (5) Total energy charge (broken down by energy charges and demand charges)
- (6) UDC "pass through" charges for UDC services broken out in detail for each account in a manner consistent with alternate supplier/UDC arrangements and state regulatory requirements.
- (8) All information required by the state's utility regulatory agency/commission to be included on customer invoices.

**NOTE: Additional customer specific billing requirements may be added and will be specified prior to any pricing submittal deadline.**

(c) **METERING AND METER READING SERVICES.** Will be provided by the incumbent UDC for each account.

(d) **SCHEDULING AND SUPPLY MANAGEMENT.** It shall be the Contractor's responsibility to schedule deliveries for all accounts awarded for the time period specified herein. The Contractor shall be responsible for supply management and overall coordination of production, transmission, and distribution of electrical power to the service point of each account identified in the contract. As such, the Contractor shall be knowledgeable of and responsible for imbalance policies, transmission grid losses, transmission congestion charges and UDC line losses for the delivery of electricity to the service point of each account under the contract. The Contractor must meet all applicable State and Federal requirements necessary to successfully complete any contract. The Government will not pay any costs associated with the Contractor's failure to deliver electrical power at the delivery point sufficient to meet the demand at the service point of each account under the contract or to schedule and coordinate for the delivery of electricity to each service point.

(e) **RECORD KEEPING.** The Contractor shall keep records of data required to bill in accordance with the utility tariff of each account (demand and consumption data) in an electronic database format compatible with Microsoft Access or a spreadsheet format compatible with Microsoft Excel. These records shall be made available to DESC or to any party designated by DESC as authorized to request this data. In the event that the Contractor maintains records on demand and consumption data in addition to that required to bill in accordance with the utility tariff, said data shall also be made available to DESC or to any party designated by DESC as authorized to request this data.

(f) **ORDERING.** Orders shall be made in accordance with the ELECTRICITY ORDERING PROCEDURES clause.

(g) **POINT OF DELIVERY.** For this solicitation and any resulting contract, the delivery point for each account is defined as an interconnect with the UDC owned or controlled transmission or distribution systems.

(h) **SERVICE POINT.** For this solicitation and any resulting contract, the service point is defined as the meter(s) indicated for each account awarded as described in Attachment III, Block 2.

(i) **SPECIFICATIONS.** The electricity provided under this contract shall conform to the tariff of the transmitting and/or distributing utility at the delivery point(s) specified in the Schedule.

(j) **ADDING FUTURE ACCOUNTS.** It is possible that additional accounts not included in the solicitation may be added to the resultant contract(s). In that event, the Government will provide the



Contractor with the facility's electric requirement (if available) and the two parties shall enter into good faith negotiations to determine a price. A bilateral modification will be executed adding the line item on the Standard Form 30, Amendment of Solicitation/Modification of Award.

(DESC 52.246-9F25)  
C800 (DESC MAR 2005)

### 3. REQUIRED CENTRAL CONTRACTOR REGISTRATION

(a) **DEFINITIONS.** As used in this clause--

(1) **Central Contractor Registration (CCR) database** means the primary Government repository for Contractor information required for the conduct of business with the Government.

(2) **Commercial and Government Entity (CAGE) code** means—

(i) A code assigned by the Defense Logistics Information Service (DLIS) to identify a commercial or Government entity; or

(ii) A code assigned by a member of the North Atlantic Treaty Organization that DLIS records and maintains in the CAGE master file. This type of code is known as an "NCAGE code."

(3) **Data Universal Numbering Systems (DUNS) number** means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

(4) **Data Universal Numbering System + 4 (DUNS+4) number** means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see Subpart 32.11 of the Federal Acquisition Regulation) for the same parent concern.

(5) **Registered in the CCR database** means that—

(i) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database;

(ii) The Contractor's CAGE code is in the CCR database; and

(iii) The Government has validated all mandatory data fields and has marked the records "**Active.**"

(b) (1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "**DUNS**" or "**DUNS+4**" followed by the DUNS or DUNS+4 number that identified the offeror's name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number—

(i) If located within the United States, by calling Dun and Bradstreet at 1-866-705-5711 or via the Internet at <http://www.dnb.com>; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business name.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company physical street address, city, state and Zip Code.

(iv) Company mailing address, city, state and Zip Code (if separate from physical).

(v) Company telephone number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(g) (1) (i) If a contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to—

(A) Change the name in the CCR database;

(B) Comply with the requirements of Subpart 42.12 of the FAR; and

(C) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the EFT clause of this contract.

(h) Offerors and contractors may obtain information on registration and annual confirmation requirements via the Internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or 269-961-5757.

(FAR 52.204-7/DFARS  
252.204-7004) I1.07  
(ALTERNATE A) (OCT  
2003/NOV 2003)

**4) TAILORED PARAGRAPHS OF FAR CLAUSE 52.212-4 CONTRACT TERMS AND CONDITIONS. ALL OTHER INSTRUCTIONS INCLUDED IN FAR 52.212-4 ARE HEREBY INCORPORATED BY REFERENCE (SEE BLOCK 27A OF STANDARD FORM 1449).**

(f) **EXCUSABLE DELAYS.** The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence, such as acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

**(k) TAXES (See the AFTER-IMPOSED/AFTER-RELIEVED FEDERAL, STATE, AND LOCAL TAX clause).**

(1) The contract price includes all applicable Federal, State, and local taxes and duties in effect at contract signing.

(2) After-imposed Federal, State, or local tax, as used in this clause, means any new or increased Federal, State, or local excise tax or duty, or tax that was exempted or excluded on the contract award date but whose exemption was later revoked or reduced, or whose computation was later changed during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax, income tax, or other employment taxes. The contract price shall be increased by the amount of any after-imposed Federal, State or local tax, provided the Contractor warrants, in writing, that no amount for such newly imposed Federal, State, or local excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

(3) After-relieved Federal, State, or local tax, as used in this clause, means any amount of Federal, State, or local excise tax or duty that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax, income tax, or other employment taxes. The contract price shall be decreased by the amount of any after-relieved Federal, State, or local tax.

**(l) TERMINATION FOR THE GOVERNMENT'S CONVENIENCE.**

(1) In accordance with all applicable state and local distribution company regulations, the Government reserves the right to terminate this contract with respect to any or all contract quantities, for its sole convenience. In the event of such termination, the Contractor shall cease deliveries hereunder with respect to such terminated contract quantities on the first allowable date subsequent to such termination according to the applicable tariff sheets of the local distribution company. The Contractor shall cause any and all of its suppliers and subcontractors to cease work related to this contract prior to the date and time specified by the Government for the termination. Subject to the terms and conditions of this contract, the Contractor shall be paid for electricity delivered under the contract prior to the date and time specified by the Government for the termination of any or all contract quantities plus any additional energy the Contractor is required to deliver for the Government's account under applicable location distribution company tariff sheets.

(2) In the event of a termination for convenience, the Government shall pay the Contractor the termination value, if positive, calculated by the following formula:

$$A = \Sigma (B - C) * D$$

Where--

A = Termination value.

B = Award price for each usage period for each season.

C = Forward market bid price, defined herein.

D = Contract quantity for each usage period for each season (based on data listed in the Installation Data Sheets).

(3) If the termination value on the date of termination is negative, the Contractor shall not be entitled to any payment.

(4) The forward market bid price shall be defined as **(insert relevant market index)** – average of on peak and off peak prices. The forward market price will be determined by the Contractor in a commercially reasonable manner, which may include polling energy brokers on the date of termination. The Government

shall have the right to reasonably audit forward market price data obtained by the Contractor.

(5) In the event that the Government elects to terminate on a date other than the end of a month or at the end of the summer/non-summer season, as defined by applicable local distribution company and tariff, the estimated remaining contract quantity will be calculated by prorating the partial month or partial season of service.

(6) In the event of a termination for convenience, the Government's liability shall be limited to the termination value calculated in accordance with the provisions of this clause.

**(7) APPLICABLE FOR RETAIL BLOCK PURCHASE OPTION ONLY:** In the event of a termination for convenience, the Government's liability shall pay the Contractor the termination value, if positive, calculated by the following formula:

$$A = ((B - C) * D)$$

Where--

A = Termination value

B = Award price for the 7/24 block

C = Forward market bid price for the 7/24 block, defined herein

D = Remaining contract quantity for the 7/24 block

(i) If the termination value on the date of termination is negative, the Contractor shall not be entitled to any payment.

(ii) The forward market bid price for the 7/24 block shall be defined as the market price per megawatt hour (MWh) for a 7/24 – 1 MWh/hr block of energy for the relevant delivery location, \_\_\_\_\_. The forward market price will be determined by the Contractor in a commercially reasonable manner, which may include polling energy brokers on the date of termination. The Government shall have the right to reasonably audit forward market price data obtained by the Contractor.

(iii) In the event of a termination for convenience, the Government's liability shall be limited to the termination value calculated in accordance with the provisions of this clause.

**(8) APPLICABLE FOR NASA JOHNSON SPACE CENTER ONLY:** In the event of a termination for convenience, the Government shall pay the contractor the Termination Value, if positive, calculated by the following formula:

$$A = ((B - C) * D) + ((E - F) * G)$$

Where:

A = Termination Value

B = Award Price for the 7/24 Block

C = Forward Market Bid Price for the 7/24 Block, defined herein

D = Remaining Contract Quantity for the 7/24 Block

E = Award Price for the 5/16 Block

F = Forward Market Bid Price for the 5/16 Block, defined herein

G = Remaining Contract Quantity for the 5/16 Block

(i) If the Termination Value on the date of termination is negative, the contractor shall not be entitled to any payment.

(ii) The Forward Market Bid Price for the 7/24 Block shall be defined as the market price per MWh for a 7/24 15 MWh/hr block of energy for the relevant delivery location, please insert the relevant delivery location i.e. PJM East, PJM West, ERCOT, etc. in the space provided (**ERCOT**), for a term equal to the remaining term of the contract. The Forward Market Price will be determined by the contractor in a commercially reasonable manner, which may include polling energy brokers on the date of termination.

The Government shall have the right to reasonably audit Forward Market Price data obtained by the contractor.

(iii) The Forward Market Bid Price for the 5/16 Block shall be defined as the market price per MWh for a 5/16 50 MWh/hr block of On-Peak (5x16) energy for the relevant delivery location, please insert the relevant delivery location i.e. PJM East, PJM West, ERCOT, etc. in the space provided (ERCOT), for a term equal to the remaining term of the contract. The Forward Market Price will be determined by the contractor in a commercially reasonable manner, which may include polling energy brokers on the date of termination. The Government shall have the right to reasonably audit Forward Market Price data obtained by the contractor.

(iv) In the event of a termination for convenience, the Government's liability shall be limited to the Termination Value calculated in accordance with the provisions of this clause.

(n) **TITLE.** Title to the electricity supplied by the Contractor under this contract shall pass to the Government upon delivery at the delivery point specified in the Schedule. The Contractor warrants that the electricity delivered to the Government under this contract will be free and clear of any liens, claims and encumbrances arising prior to delivery at the delivery point specified in the Schedule.

(o) **WARRANTY.** The Contractor warrants and implies that the electricity delivered hereunder conforms to the tariff of the transmitting and/or distributing utility at the delivery point specified in the Schedule.

FAR 52.212-4 I1.03-11  
(JAN 2005)

## 5. NOTIFICATION OF TARIFF/RATE CHANGES

The Contractor shall give the Contracting Officer and the installation written notice of the filing of an application for transportation tariff/rate changes and/or the scheduling of a tariff/rate hearing that would impact installations within one working day of receiving such application or notification of such hearing.

NOTE: Email notification is acceptable, provided it includes the specific tariff change (via cut and paste) and its effective date.

DESC H800 (JAN 1998)

## 6. EXTENSION PROVISIONS (ELECTRICITY) (DESC NOV 2003)

(a) For line items priced as other than Firm Fixed Price, the performance period can be extended for up to six months by mutual agreement of the parties.

(b) For line items priced as Firm-Fixed Price, the Government may request extension of performance, one or more times, at the existing fixed price and in accordance with the existing contract terms and provisions, so long as the total additional performance does not exceed six months. If the Contractor declines to extend at the existing price, the Government may propose a new firm-fixed price for the extension. Extension of Firm-Fixed Price line items must be accomplished by agreement of all parties (bilateral modification). Failure to agree will result in expiration of the contract at the end of the current performance period.

(DESC 52.217-9F50)  
DESC I209.15 (NOV  
2003)

## 7. ELECTRICITY ORDERING PROCEDURES

For the purposes of this contract, the instantaneous load at the service point, as described in the individual Installation Data Sheets, shall constitute an order for electricity to be furnished under this contract.

(DESC 52.216-9FD6)  
DESC I800 (FEB 2002)

## 8. REQUIREMENTS

(a) This is a requirements contract for the supplies or services specified and effective for the period stated in the Schedule. The quantities of supplies or services specified in the Schedule are estimates only and are not purchased by this contract. Except as this contract may otherwise provide, if the Government's requirements do not result in orders in the quantities described as "estimated" or "maximum" in the Schedule, that fact shall not constitute the basis for an equitable price adjustment.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the ORDERING clause. Subject to any limitations in the ORDER LIMITATIONS clause or elsewhere in this contract, the Contractor shall furnish to the Government all supplies or services specified in the Schedule and called for by orders issued in accordance with the ORDERING clause. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(c) Except as this contract otherwise provides, the Government shall order from the Contractor all the supplies or services specified in the Schedule that are required to be purchased by the Government activity or activities specified in the Schedule.

(d) The Government is not required to purchase from the Contractor requirements in excess of any limit on total orders under this contract.

(e) If the Government urgently requires delivery of any quantity of an item before the earliest date that delivery may be specified under this contract, and if the Contractor will not accept an order providing for the accelerated delivery, the Government may acquire the urgently required goods or services from another source.

(f) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; PROVIDED, that the Contractor shall not be required to make any deliveries under this contract after (to be defined in each price submittal request).

**NOTE:** Paragraph (a) of this clause does not apply to purchases of retail blocks of power.

(FAR 52.216-21)  
I84 (OCT 1995)

## 9. ELECTRICITY PRICING FOR QUANTITIES OUTSIDE ESTABLISHED LOAD BANDWIDTH (ILLINOIS & TEXAS)

(a) The Government may consume electricity within the allowable variance in consumption specified in the contract (bandwidth) without adjustment to the contract price. For each installation, applicable bandwidth is the range from \_\_ **(will be defined for each price submittal request)** percent above to \_\_\_ **(will be defined in each price submittal request)** percent below the estimate of consumption included in the Installation Data Spreadsheets for the installation for that month. If, in any month, consumption of electricity falls outside the contract bandwidth for any installation, there shall be an adjustment to the contract price. The adjustment methodology is specified below.

(b) If, in any month, an Energy Deficiency occurs, an Energy Deficiency Adjustment shall be made. **Energy Deficiency** is the amount in kilowatt hours (kWh) by which consumption of electricity falls below the lower limit of the contract bandwidth for an installation for a month. **Energy Deficiency Adjustment** means the charge or credit calculated each monthly billing period for the Energy Deficiency. The Energy Deficiency Adjustment equals the Energy Deficiency times the contract price in cents per kWh minus the Average Market Price for the month. The **Average Market Price for a month** is the sum of Daily Market Prices for that month divided by the number of days during the month. A **Daily Market Price in Texas** is the average of all ERCOT Market Clearing Prices for a day, found on ERCOT's website (for the applicable zone where the impacted installation is physically located). A **Daily Market Price in Illinois** is the average of the Day Ahead On-Peak and Off-Peak prices as published in Platts Megawatt Daily NI

**Hub.** If the result is a positive number, then the Energy Deficiency Adjustment will be a charge to the customer; if the result is a negative number, then the Energy Deficiency Adjustment will be a credit to the customer.

Expressed as a formula, the Energy Deficiency Adjustment is **EDA = ED x (CP - AMP)**  
 where--**EDA** is the Energy Deficiency Adjustment  
**ED** is the Energy Deficiency  
**CP** is the contract price  
**AMP** is the Average Market Price

The Energy Deficiency Adjustment shall be calculated following the monthly billing period in which the energy was consumed and included on the next monthly invoice.

(c) If, in any month, Excess Energy is consumed, an Excess Energy Adjustment shall be made. **Excess Energy** is the amount of electricity consumed above the upper limit of the contract bandwidth for an installation for a month. **Excess Energy Adjustment** means the charge calculated each monthly billing period for the Excess Energy. The Excess Energy Adjustment equals the Excess Energy times the contract price in cents per kWh minus the Average Market Price for the month. The **Average Market Price for a month** is the sum of the Daily Market Prices for that month divided by the number of days during the month. A **Daily Market Price in Texas** is the average of all ERCOT Market Clearing Prices for a day, found on ERCOT's website (for the applicable zone where the impacted installation is physically located). A **Daily Market Price in Illinois** is the average of the Day Ahead On-Peak and Off-Peak prices as published in Platts Megawatt Daily NI Hub. If the result is a positive number, then the Excess Energy Adjustment will be a credit to the customer; if the result is a negative number, then the Excess Energy Adjustment will be a charge to the customer.

Expressed as a formula, the Excess Energy Adjustment is **EEA = EE x (CP - AMP)** where--  
**EEA** is the Excess Energy Adjustment  
**EE** is the Excess Energy  
**CP** is the contract price  
**AMP** is the Average Market Price

The Excess Energy Adjustment shall be calculated following the monthly billing period in which the energy was consumed and included on the next monthly invoice.

1801.100  
 (DESC AUG 2003)

## 10. TYPE OF CONTRACT

The Government contemplates award of a Firm Fixed Price Requirements Type contract or a Requirements Type contract utilizing Locational Marginal Price (LMP).

(FAR 52.216-1)  
 L74 (APR 1984)

## 11. DISPUTES: AGREEMENT TO USE ALTERNATIVE DISPUTE RESOLUTION

(a) The parties agree to negotiate with each other to try to resolve any disputes that may arise. If unassisted negotiations are unsuccessful, the parties will use alternative dispute resolution (ADR) techniques to try to resolve the dispute. Litigation will only be considered as a last resort when ADR is unsuccessful or has been documented by the party rejecting ADR to be inappropriate for resolving the dispute.

(b) Before either party determines ADR inappropriate, that party must discuss the use of ADR with the other party. The documentation rejecting ADR must be signed by an official authorized to bind the contractor (see FAR 52.233-1), or, for the Agency, by the contracting officer, and approved at a level above the contracting officer after consultation with the ADR Specialist and with legal counsel (see [DLA Directive 5145.1](#)). Contractor personnel are also encouraged to include the ADR Specialist in their discussions with the contracting officer before determining ADR to be inappropriate.

(c) If you wish to opt out of this clause, check here [ ]. Alternate wording may be negotiated with the contracting officer.

FAR 52.233-1 DLAD  
33.214 (JUN 2001)

## 12. PRICING FOR QUANTITIES OUTSIDE ESTABLISHED RETAIL BLOCKS OF ELECTRICITY

### For Retail Block Purchase Option ONLY:

(a) If, in any hour (Settlement Period), consumption of electricity is above or below the contract blocks, there shall be an adjustment to the contract price. The adjustment methodology is specified below.

(b) If, in any Settlement Period, an Energy Deficiency occurs, an Energy Deficiency Adjustment shall be made. **Energy Deficiency** means the deficit in the Government's Actual Consumption for Settlement Period as measured against the sum of the energy associated with the 24/7 block and/or 5/6 for the Settlement Period, i.e., the Benchmark Quantity. Energy Deficiency is calculated by subtracting the Actual Consumption for a Settlement Period from the Settlement Period Benchmark Quantity for that period. The Energy Deficiency Adjustment is a credit to the Government.

Expressed as a formula, the Energy Deficiency Adjustment is **EDA = ED x ((Applicable Index) – TF)** where--

**EDA** is the Energy Deficiency Adjustment **ED** is the Energy Deficiency Applicable Index will be defined in each price submittal request **TF** is the Transaction Fee (only to be applied to the energy deficiency amount)

The Energy Deficiency Adjustment is calculated for each Settlement Period in the month in which the energy was consumed and included on the next monthly invoice.

(c) If, in any Settlement Period, Excess Energy is consumed, an Excess Energy Adjustment shall be made. **Excess Energy** means the excess in Government's Actual Consumption for the Settlement Period as measured against the Settlement Period

Benchmark Quantity. Excess Energy is calculated by subtracting the Settlement Period Benchmark Quantity from the Actual Consumption for the Settlement Period. The Excess Energy Adjustment is a charge to the Government.

Expressed as a formula, the Excess Energy Adjustment is **EEA = EE x ((Applicable Index) + TF)** where--

**EEA** is the Excess Energy Adjustment **EE** is the Excess Energy Applicable Index will be defined in each price submittal request **TF** is the Transaction Fee (only to be applied to the excess energy amount)

The Excess Energy Adjustment is calculated for each Settlement Period in the month in which the energy was consumed and included on the next monthly invoice.



### 13. LOCATIONAL MARGINAL PRICE -- MARKET-BASED TARIFF -- FIXED CAPACITY (ELECTRICITY)

The total amount charged by the Contractor (for accounts listed in Attachment III-LMP) each month shall equal the sum of the following four components, with the exception of Princeton Plasma Physics Laboratory (PPPL)\*:

(a) **Energy.** For each hour of the month, the Government shall pay the Contractor the product of the Real-Time Locational Marginal Price (LMP) (subject to the terms in paragraph (b) of this clause) for the PJM node through which the account is served and the metered load of the account increased for line losses to the same PJM node.

(b) **Capacity.** For each day of the month, the Government shall pay the Contractor the product of the capacity price and the account's Capacity Obligation. The capacity price shall be firm-fixed-price. The account's Capacity Obligation shall equal the portion of the Contractor's PJM Capacity Obligation attributable to the account.

(c) **Transmission.** The Government shall pay the Contractor the product of the account's Transmission Obligation and the zonal rate for Network Transmission Service specified in the PJM Open Access Transmission Tariff. The Transmission Obligation shall equal the account's load coincident with the transmission zone's peak during the 12 months ending October 31st of the previous calendar year.

(d) **Ancillary Services and Supply Service Fee.** The Government shall pay the Contractor the product of a fixed fee and the account's total energy consumption in that month. Payment of this fee shall compensate the Contractor for all services performed, as well as the cost of PJM ancillary services and any other costs not specifically addressed by the Energy, Capacity, or Transmission components described in this section. The price of the fixed fee shall remain constant throughout the contract term.

**\*Total Indexed Electric Cost (PPPL).** The total amount charged each month by the Contractor shall be the sum of Item 1 and Item 4 (as defined above) less adjustment for any energy purchases made subject to Attachment III. Such adjustments will be made to the calculation of the Energy component charge by subtracting from the hourly metered load the Base Quantity defined by Attachment III. No such adjustments may reduce the hourly metered load to less than zero.

**Indices.** In the event that the PJM LMP or any other index upon which any price is determined is either no longer published or is substantially altered in derivation or application (including, but not limited to, the elimination of price caps), the parties shall agree upon a replacement index. If the parties fail to agree on an appropriate substitute index, the matter shall be resolved in accordance with paragraph (d), Disputes, of the CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS clause of the contract.

(DESC 52.216-9FBD)  
B803 (DESC JUL 2003)

### 14. OPTION TO EXTEND THE TERM OF THE CONTRACT

(a) The Government may extend the term of this contract by written notice to the Contractor within 60 days, **PROVIDED**, that the Government shall give the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 5 years (April 2010) .

(FAR 52.217-9)  
I209.07 (MAR 2000)

**15. ELECTRICITY REGULATORY CHANGES (DESC AUG 2005)**

(a) The contractor price includes all applicable independent system operator/regional transmission organization (ISO/RTO charges to be in effect at contract signing.

(b) **After-imposed ISO/RTO charges**, as used in this clause, means any new ISO/RTO charges and/or ISO/RTO changes subject to regulation, that were exempted or excluded on the contract date but whose exemption was later revoked on the transactions covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial or administrative action taking effect after the contract date. The contract price shall be increased by the amount of any after-imposed ISO/RTO charge (with no mark up), provided the Contractor warrants in writing that no amount for such newly after-imposed ISO/RTO charge was included in the contract price, as a contingency reserve or otherwise.

(c) **After-relieved ISO/RTO charges**, as used in this clause, means any amount of ISO/RTO charges, subject to regulation, that would otherwise have been payable on the transactions or property covered by this contract but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback as the result of legislative, judicial or administrative action taking effect after the contract date. The contract price shall be decreased by the amount of any after-relieved ISO/RTO charges.

(DESC 52.211-9FS1)

## **PART II (INSTRUCTIONS AND EVALUATION)**

### **1. L801 INSTRUCTIONS TO OFFERORS (ELECTRICITY) (DESC JAN 2003)**

#### **(a) EVIDENCE OF RESPONSIBILITY.**

- (1) An offeror must possess, at a minimum, six months of experience (within the past two years) providing supply and transportation (firm and/or interruptible) of electricity to wholesale or retail customers. If the offeror does not possess at least six months of experience, it will not be considered for award.
- (2) An offeror shall provide evidence that it is authorized to conduct business by each state's regulatory body having jurisdiction over the state's electric industry prior to award of any contract for solicited requirements.
- (3) The offeror must possess, or demonstrate the ability to obtain, transmission service agreements in the company's name for the points of receipt specified in the Schedule. Failure to document the ability to obtain necessary transmission service agreements shall render the offeror nonresponsible.
- (4) The evidence of responsibility required above is in addition to the general responsibility criteria set forth in FAR 9.104.
- (5) The Government may conduct preaward surveys in accordance with FAR 9.106 and obtain, from available sources, relevant information concerning the offeror's ability to satisfy the responsibility standards stated in this provision and FAR Part 9.

#### **(b) OFFEROR'S PROPOSAL.**

- (1) An offeror must propose to supply the total line item quantity for the line items identified in the Schedule. Failure to offer the total line item quantity will preclude Government evaluation and award to the offeror for the line items. If an offeror chooses to submit more than one offer, it may do so by submitting a separate price submittal for each. Offers based on other pricing mechanism or alternative methods of supplying electricity may be considered.

(2) **PART I - EXECUTED RFP.** The original Part I shall contain original signatures. The executed RFP shall consist of the following:

- (i) Standard Form 1449, Solicitation, Contract, Order for Commercial Items, with Blocks 17, and 30A through 30C completed. By completing Blocks 30A through 30C the offeror agrees to the terms and conditions of the RFP.
- (ii) The Offeror Representations and Certifications.

(3) **PART II - TECHNICAL MANAGEMENT SUBMISSION.** To substantiate meeting general and special responsibility criteria and the evaluation criteria stated in the RFP, the offeror shall submit the following:

- (i) The most recent annual report (a web address is acceptable);
- (ii) The most recent 10K report (a web address is acceptable);
- (iii) A brief description of the risk management practices to be employed during contract performance;
- (iv) A brief description of the sources of working capital for the offeror's power marketing activities;
- (v) Résumés of the key personnel who would be assigned to administer a resultant contract;
- (vi) **State Marketing License data.** Date of Application and Date of Approval;
- (vii) The documentation required in paragraph (a) of this clause.

**NOTE: FOR PRINCETON PLASMA PHYSICS LAB ACCOUNT NUMBER 02-62-05-09-50-68 ONLY:** The Contractor shall provide their entire PJM Economic Load Response program.

(DESC 52.215-9F68) L801 (DESC JAN 2003)

### **2. EVALUATION – COMMERCIAL ITEMS**

- (a) The Government will award delivery orders resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other non-price factors considered. The following factors shall be used to evaluate offers:

- (i) Technical Capability
  - a) Supply Portfolio and/or Proposed Sources of Supply
  - b) Industry Experience
- (ii) Past Performance
- (iii) Price
- (iv) Socioeconomic Proposal

Technical Capability and Past Performance are equally important and each is more important than price. The Socioeconomic Proposal is significantly less important than price. When combined these three evaluation factors are significantly more important than price.

(b) A written notice of award or acceptance of an offer mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

FAR 52.212-2  
M2.15 (AUG 2003)

### **3. PRICE EVALUATION (ELECTRICITY)**

The price evaluation criteria will vary depending on the market/state and/or customer preference; therefore, the price evaluation criteria will be specified within each pricing submittal request.

### **4. AUTHORIZED NEGOTIATORS (DESC JAN 1998)**

The first page of the offer must show names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate with the Government on the offeror's behalf in connection with this solicitation. The offeror or quoter represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals or quotations.

DESC K33.01  
(JAN 1998)

### **5. STATUTES AND EXECUTIVE ORDERS**

**NOTE: 52.219-23 NOTICE OF PRICE EVALUATION ADJUSTMENT FOR SMALL DISADVANTAGED BUSINESS CONCERNS IS APPLICABLE TO NASA AND COAST GUARD LINE ITEMS ONLY.**

#### **FAR 52.212.5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS – COMMERCIAL ITEMS (JUN 2004)**

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clause, which is incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items: 52.233-3, Protest After Award (31 U.S.C. 3553).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

**[Contracting Officer shall check as appropriate.]**

[ X ](1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Jul 1995), with Alternate I (Oct 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

[ ] (2) 52.219-3, Notice of Total HUBZone Set-Aside (Jan 1999) (15 U.S.C. 657a).

[ X ](3) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jan 1999) (if the offeror elects to waive the preference, it shall so indicate in its offer.) (15 U.S.C. 657a).

[ X ](7) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)).

[ X ](8) (i) 52.219-9, Small Business Subcontracting Plan (Jan 2002) (15 U.S.C. 637 (d)(4)). [ ] (ii) Alternate I (Oct 2001) of 52.219-9.

[ X ] (iii) Alternate II (Oct 2001) of 52.219-9.

[X ](10) (i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Jun 2003) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).

[ X ] (ii) Alternate I (Jun 2003) of 52.219-23

[ X ](12) 52.219-26, Small Disadvantaged Business Participation Program – Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

[ X ](14) 52.222-3, Convict Labor (Jun 2003) (E.O. 11755).

[ X ](15) 52.222-19, Child Labor – Cooperation with Authorities and Remedies (Jun 2004) (E.O. 13126).

[ X ](16) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).

[ X ] (17) 52.222-26, Equal Opportunity (Apr 2002) (E.O. 11246).

[ X ] (18) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) (38 U.S.C. 4212).

[ X ] (19) 52.222-36, Affirmative Action for Workers with Disabilities (Jun 1998) (29 U.S.C. 793).

[ X ] (20) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) (38 U.S.C. 4212).

[ X ](30) 52.232-33, Payment by Electronic Funds Transfer – Central Contractor Registration (Oct 2003) (31 U.S.C. 3332).

(d) **COMPTROLLER GENERAL EXAMINATION OF RECORD.** The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, AUDIT AND RECORDS -- NEGOTIATION.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the DISPUTES clause or to litigation or the settlement of claims arising under or

relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.  
 (3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) (1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c) and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in paragraphs (i) through (vi) of this paragraph, in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause--

(i) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (Apr 2002) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans, (Dec 2001) (38 U.S.C. 4212).

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (Jun 1998) (29 U.S.C. 793).

(v) 52.222-41, Service Contract Act of 1965, as Amended (May 1989), flow down required for all subcontracts subject to the Service Contract Act of 1965 (41 U.S.C. 351, et. seq.).

(vi) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Apr 2003) (46 U.S.C. Appx. 1241 and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the Contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

FAR 52.212-5  
 11.04 (JUN 2004)

## **6. CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (JUN 2004)**

(a) The Contractor agrees to comply with the following Federal Acquisition Regulation (FAR) clause which, if checked, is included in this contract by reference to implement a provision of law applicable to acquisitions of commercial items or components.

☐ [ X ] 52.203-3 Gratuities (APR 1984) (10 U.S.C. 2207)

(b) The Contractor agrees to comply with any clause that is checked on the following list of Defense FAR Supplement clauses which, if checked, is included in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items or components.

☐ [ X ] 252.225-7001 Buy American Act and Balance of Payments Program (APR 2003) (41 U.S.C. 10a-10d, E.O. 10582).

☒ [X] 252.226-7001 Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (OCT 2003) (Section 8021 of Pub. L. 107-248).

☒ [X] 252.243-7002 Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).

(DFARS 252.212-7001)  
 11.05 (JUN 2004)

## **7. INSTRUCTIONS (PARAGRAPHS) THAT HAVE BEEN TAILORED TO BE MORE CONSISTENT WITH COMMERCIAL PRACTICE UNDER FAR Part 52.212-1. ALL OTHER INSTRUCTIONS INCLUDED IN FAR 52.212-1 ARE HEREBY INCORPORATED BY REFERENCE (SEE BLOCK 27A OF STANDARD FORM 1449).**

- (a) North American Industry Classification System (NAICS) code and small business size standard. The NAICS code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet (SF 1449). However, the small business size standard for a concern which submits an offer in its own name, but which proposes to furnish electricity which it did not itself generate, is 500 employees.
- (c) Period for acceptance of offers. The offeror agrees to hold the prices in its offer firm for **48 hours** from the date specified for receipt of offers.
- (g) Delivery order award. The Government intends to evaluate offers and award a under this Basic Ordering Agreement without discussions with offerors (except clarifications as described in FAR 15.306(a)). Therefore, the offeror's initial offer should contain the offeror's best terms from a cost or price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. If the Contracting Officer determines that the number of offers that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of offers in the competitive range to the greatest number that will permit efficient competition among the most highly rated offers. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received. It should be noted that the Government reserves the right to reject all offers if none of the offers received results in a delivered cost of electricity lower than the delivered cost under the applicable "standard offer" or established default rate under state and/or local regulation.
- (h) Multiple awards. The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government will not make an award on any item for less than the quantity specified.

FAR 52.212-1  
L2.05 (Jan 2005)

## **8. DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY**

(a) **DEFINITIONS.** As used in this provision--

- (1) **Government of a terrorist country** includes the state and the government of a terrorist country, as well as any political subdivision, agency, or instrumentality thereof.
- (2) **Terrorist country** means a country determined by the Secretary of State, under Section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(i)(A)), to be a country the government of which has repeatedly provided support for acts of international terrorism. As of the date of this provision, terrorist countries include Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.
- (3) **Significant interest**, as used in this provision means--
- (i) Ownership of or beneficial interest in 5 percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding 5 percent or more of any class of the firm's securities in "nominee shares," "street names," or some other method of holding securities that does not disclose the beneficial owner;
  - (ii) Holding a management position in the firm, such as director or officer;
  - (iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;
  - (iv) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or
  - (v) Holding 50 percent or more of the indebtedness of a firm.
- (b) **PROHIBITION ON AWARD.** In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary, the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.

(c) **DISCLOSURE.** If the government of a terrorist country has a significant interest in the offeror or a

subsidiary of the offeror, the offeror shall disclose such interest in an attachment to its offer. If the offeror is a subsidiary, it shall also disclose any significant interest each government has in any firm that owns or controls the subsidiary. The disclosure shall include--

- (1) Identification of each government holding a significant interest; and
- (2) A description of the significant interest held by each Government. (DFARS 252.209-7001) K85 (MAR 1998)

## 9. AGENCY PROTESTS

Companies protesting this procurement may file a protest (1) with the Contracting Officer, (2) with the General Accounting Office, or (3) pursuant to Executive Order No. 12979, with the Agency for a decision by the Activity's Chief of the Contracting Office. Protests filed with the Agency should clearly state that they are an "Agency Level Protest under Executive Order No. 12979." (**NOTE:** DLA procedures for Agency Level Protests filed under Executive Order No. 12979 allow for a higher level decision on the initial protest than would occur with a protest to the Contracting Officer; this process is not an appellate review of a Contracting Officer's decision on a protest previously filed with the Contracting Officer.) Absent a clear indication of the intent to file an agency level protest, protests will be presumed to be protests to the Contracting Officer.

(DLAD 52.233-9000)  
L5.01-1 (SEP 1999)

## PART III

### K1.01-10 OFFEROR REPRESENTATIONS AND CERTIFICATIONS - COMMERCIAL ITEMS (ALTERNATES I/II) (JAN 2005/APR 2002/OCT 2000)

An offeror shall complete only paragraph (j) of this provision if the offeror has completed the annual representations and certifications electronically at <http://orca.bpn.gov>. If an offeror has not completed the annual representations and certifications electronically at the ORCA website, the offeror shall complete only paragraphs (b) through (i) of this provision.

(a) **DEFINITIONS.** As used in this provision--

(1) **Emerging small business** means a small business concern whose size is no greater than 50 percent of the numerical size standard for the NAICS code designated.

(2) **Forced or indentured child labor means** all work or service—

(i) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(ii) Performed by any person under the age of 18 pursuant to a contract, the enforcement of which can be accomplished by process of penalties.

(3) **Service-disabled veteran-owned small business concern—**

(i) Means a small business concern—

(A) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(B) The management and daily business operations are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(ii) **Service-disabled veteran** means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

(4) **Small business concern** means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and size standards in this solicitation.

(5) **Veteran-owned small business concern means a small business concern—**

(i) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly-owned business, not less than 51 percent of the stock of which is owned by one or more veterans, and



(ii) The management and daily business operations of which are controlled by one or more veterans.  
**(6) Women-owned business concern** means a concern that is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

**(7) Women-owned small business concern** means a small business concern--

(i) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(ii) Whose management and daily business operations are controlled by one or more women.

**(b) TAXPAYER IDENTIFICATION NUMBER (TIN) (26 U.S.C. 6109, 31 U.S.C. 7701). (Not applicable if the offeror is required to provide this information to a central contractor registration database to be eligible for award.)**

(1) All offerors must submit the information required in paragraphs (b)(3) through (b)(5) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

**(3) TAXPAYER IDENTIFICATION NUMBER (TIN).**

- ☐ TIN: \_\_\_\_\_  
☐ TIN has been applied for.  
☐ TIN is not required because:

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the U.S. and does not have an office or place of business or a fiscal paying agent in the U.S.

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of a Federal government;

**(4) TYPE OF ORGANIZATION.**

**(5) COMMON PARENT.**

☐ Offeror is not owned or controlled by a common parent.

☐ Name and TIN of common parent:

- ☐ Sole proprietorship;  
☐ Partnership;  
☐ Corporate entity (not tax-exempt);  
☐ Corporate entity (tax-exempt);  
☐ Government entity (Federal, State, or local);  
☐ Foreign government;  
☐ International organization per 26 CFR 1.6049-4;  
☐ Other: \_\_\_\_\_.

Name \_\_\_\_\_

TIN \_\_\_\_\_

(c) Offerors must complete the following representations when the resulting contract is to be performed in the United States or its outlying areas. Check all that apply.

(1) **SMALL BUSINESS CONCERN.** The offeror represents as part of its offer that it--

☐ is  
☐ is not

a small business concern.

(2) **VETERAN-OWNED SMALL BUSINESS CONCERN. (Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.)** The offeror represents as part of its offer that it—

☐ is  
☐ is not

a veteran-owned small business concern.

(3) **SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS CONCERN. (Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.)** The offeror represents as part of its offer that it—

☐ is  
☐ is not

a service-disabled veteran-owned small business concern.

(4) **SMALL DISADVANTAGED BUSINESS CONCERN. (Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.)** The offeror represents, for general statistical purposes, that it--

☐ is  
☐ is not

a small disadvantaged business concern as defined in 13 CFR 124.1002.  
 Defense Energy Support Center Basic Ordering Agreement

(5) **WOMEN-OWNED SMALL BUSINESS CONCERN. (Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.)** The offeror represents that it--

☐ is  
☐ is not

a woman-owned small business concern.

**NOTE: Complete paragraphs (c)(6) and (c)(7) only if this solicitation is expected to exceed the simplified acquisition threshold.**

(6) **WOMEN-OWNED BUSINESS CONCERN (OTHER THAN SMALL BUSINESS**

**CONCERN).** (Complete only if the offeror is a women-owned business concern and did not represent itself as a small business concern in paragraph (c)(1) of this provision.) The offeror represents that it -

☐ is a women owned business concern.

**(7) TIE BID PRIORITY FOR LABOR SURPLUS AREA CONCERNS.** If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price.

**(8) SMALL BUSINESS SIZE FOR THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM AND FOR THE TARGETED INDUSTRY CATEGORIES UNDER THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.**

(Complete only if the offeror has represented itself to be a small business concern under the size standards for this solicitation.)

**(i) (Complete only for solicitations indicated in an addendum as being set-aside for emerging small businesses in one of the four designated industry groups (DIGs)).** The offeror represents as part of its offer that it--

☐ is

☐ is not

an emerging small business.

**(ii) (Complete only for solicitations indicated in an addendum as being for one of the targeted industry categories (TICs) or four designated industry groups (DIGs)).** The offeror represents as follows:

(A) The offeror's number of employees for the past 12 months (check the Employees column if size standard stated in the solicitation is expressed in terms of number of employees); or

(B) The offeror's average annual gross revenue for the last 3 fiscal years (check the Average Annual Gross Number of Revenues column if size standard stated in the solicitation is expressed in terms of annual receipts).

(Check one of the following:)

AVERAGE ANNUAL GROSS NUMBER of EMPLOYEES  
REVENUES

☐ 50 or fewer ☐ \$1 million or less ☐ 51 - 100 ☐ \$1,000,001 - \$2 million ☐ 101 - 250 ☐ \$2,000,001 - \$3.5 million ☐ 251 - 500 ☐ \$3,500,001 - \$5 million ☐ 501 - 750 ☐ \$5,000,001 - \$10 million ☐ 751 - 1,000 ☐ \$10,000,001 - \$17 million ☐ Over 1,000 ☐ Over \$17 million

**(9) (Complete only if the solicitation contains the clause at FAR 52.219-23, NOTICE OF PRICE EVALUATION ADJUSTMENT FOR SMALL DISADVANTAGED BUSINESS CONCERNS, or FAR 52.219-25, SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM - DISADVANTAGED STATUS AND REPORTING, and the offeror desires a benefit based on its disadvantaged status.)**

**(i) GENERAL.** The offeror represents that either--

(A) It--

☐ is

☐ is not

certified by the Small Business Administration as a small disadvantaged business concern and identified, on the date of this representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net), and that no material change in disadvantaged ownership and control has occurred since its certification, and, where the concern is owned by one or more individuals claiming disadvantaged status, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); or

(B) It--

- ☐ has  
☐ has not

submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

**(ii) JOINT VENTURE UNDER THE PRICE EVALUATION ADJUSTMENT FOR SMALL DISADVANTAGED BUSINESS CONCERNS.** The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements in 13 CFR 124.1002(f) and that the representation in paragraph (c)(9)(i) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture:

---

**(iii) ADDRESS.** The offeror represents that its address—

- ☐ is  
☐ is not

in a region for which a small disadvantaged business procurement mechanism is authorized and its address has not changed since its certification as a small disadvantaged business concern or submission of its application for certification. The list of authorized small disadvantaged business procurement mechanisms and regions is posted at <http://www.arnet.gov/References/sdbadjustments.htm>. The offeror shall use the list in effect on the date of this solicitation. **Address**, as used in this provision, means the address of the offeror as listed on the Small Business Administration's register of small disadvantaged business concerns or the address on the completed application that the concern has submitted to the Small Business Administration or a Private Certifier in accordance with 13 CFR part 124, subpart B. For joint ventures, **address** refers to the address of the small disadvantaged business concern that is participating in the joint venture.

(10) **HUBZONE SMALL BUSINESS CONCERN. (Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.)** The offeror represents as part of its offer that--

(i) It--

☐ is  
☐ is not

a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns Maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR Part 126; and (ii) It--

☐ is  
☐ is not

a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(10)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. **(The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture:**

\_\_\_\_\_.)

**Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.**

(11) **(Complete if the offeror represented itself as disadvantaged in paragraph (c)(4) or (c)(9) of this provision.)** The offeror shall check the category in which its ownership falls:

- ☐ Black American
- ☐ Hispanic American
- ☐ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).
- ☐ Asian-Pacific American (persons with origin from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).
- ☐ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).
- ☐ Individual/concern, other than one of the preceding.

**(d) REPRESENTATIONS REQUIRED TO IMPLEMENT PROVISIONS OF  
EXECUTIVE ORDER 11246.**

**(1) PREVIOUS CONTRACTS AND COMPLIANCE.** The offeror represents that--

(i) It--

☐ has

☐ has not

participated in a previous contract or subcontract subject to the EQUAL OPPORTUNITY clause of this solicitation; and

(ii) It--

☐ has

☐ has not

filed all required compliance reports.

**(2) AFFIRMATIVE ACTION COMPLIANCE.** The offeror represents that--

(i) It--

☐ has developed and has on file

☐ has not developed and does not have on file Defense Energy Support Center Basic Ordering Agreement at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR Subparts 60-1 and 60-2), or

(ii) It--

☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

**(e) CERTIFICATION REGARDING PAYMENTS TO INFLUENCE FEDERAL TRANSACTIONS (31 U.S.C. 1352). (Applies only if the contract is expected to exceed \$100,000).** By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract.

**(f) TRADE AGREEMENTS CERTIFICATE (JAN 2004) (DFARS 252.225-7020). (Applies only if DFARS clause 252.225-7021, TRADE AGREEMENTS (JAN 2004), is incorporated by reference in this solicitation.) DFARS 252.225-7020 is hereby incorporated by reference in its entirety; only the certification portion is reproduced below.**

(1) For all line items subject to the TRADE AGREEMENTS clause of this solicitation, the offeror certifies that each end product to be delivered under this contract, except those listed in subparagraph (2) below, is a U.S.-made qualifying country, designated country, Caribbean Basin country, or Free Trade Agreement country end product.

(2) The following supplies are other non designated country end products:

\_\_\_\_\_ (Insert line item no.)  
 \_\_\_\_\_ (Insert country of origin)

**(g) BUY AMERICAN ACT – FREE TRADE AGREEMENTS – BALANCE OF PAYMENTS PROGRAM CERTIFICATE (JAN 2004) (DFARS 252.225-7035). (Applies only if DFARS clause 252.225-7036, BUY AMERICAN ACT – FREE TRADE AGREEMENTS – BALANCE OF PAYMENTS PROGRAM (JAN 2004) is incorporated by reference in this solicitation.) DFARS 252.225-7035 is hereby incorporated by reference in its entirety; only the certification portion is reproduced below.**

(1) For all line items subject to the BUY AMERICAN ACT – FREE TRADE AGREEMENTS – BALANCE OF PAYMENTS PROGRAM clause of this solicitation, the offeror certifies that—

(i) Each end product, except the end products listed in subparagraph (2) below, is a domestic end product; and

(ii) Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror shall identify all end products that are not domestic end products.

(i) The offeror certifies that the following supplies are qualifying country (except Canadian) end products:

\_\_\_\_\_  
(Insert line item number) (Insert country of origin)

(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products:

\_\_\_\_\_  
(Insert line item number) (Insert country of origin)

(iii) The following supplies are other foreign end products including end products manufactured in the United States that do not qualify as domestic end products:

\_\_\_\_\_  
(Insert line item number) (Insert country of origin (if known))

**(h) CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY FOR AWARD (EXECUTIVE ORDER 12549).**

The offeror certifies, to the best of its knowledge and belief, that-- (1) The offeror and/or any of its principals

☐ are

☐ are not

presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency, and

(2) ☐ have or

☐ have not,

within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

☐ are or

[ ] are not

presently indicted for, or otherwise criminally or civilly charged by a government entity with, commission of any of these offenses.

**(i) CERTIFICATION REGARDING KNOWLEDGE OF CHILD LABOR FOR LISTED END PRODUCTS (EXECUTIVE ORDER 13126).** [The Contracting Officer must list in paragraph (i)(1) any end products being acquired under this solicitation that are included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, unless excluded at 22.1503(b).]

(1) List End Product.

---

(Insert end product) (Insert country of origin)

---

(Insert end product) (Insert country of origin)

---

(Insert end product) (Insert country of origin)

---

(Insert end product) (Insert country of origin)

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(Insert end product) (Insert country of origin)

**(2) CERTIFICATION.** [If the Contracting Officer has identified end products and countries of origin in paragraph (i)(1) of this provision, then the offeror must certify to either (i)(2)(i) or (i)(2)(ii) by checking the appropriate block.]

(i) [ ] The offeror will not supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product.

(ii) [ ] The offeror may supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith

Defense Energy Support Center Basic Ordering Agreement effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

(j) (1) **ANNUAL REPRESENTATIONS AND CERTIFICATIONS.** Any changes provided by the offeror in paragraph (j) of this provision do not automatically change the representations and certifications posted on the Online Representations and Certifications Application (ORCA) website.

(2) The offeror has completed the annual representations and certifications electronically via the ORCA website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR 52.212-3, OFFEROR REPRESENTATIONS AND CERTIFICATIONS – COMMERCIAL ITEMS, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this



solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for paragraphs \_\_\_\_\_.

(FAR 52.212-  
3/Alternates I/II) K1.01-10  
(JAN 2005/APR  
2002/OCT 2000)

#### **OFFEROR REPRESENTATIONS AND CERTIFICATIONS - COMMERCIAL ITEMS**

(a) **DEFINITIONS.** As used in this clause--

(1) **Foreign person** means any person other than a United States person as defined in Section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec 2415).

(2) **United States person** is defined in Section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern that is controlled in fact by such domestic concern, as determined under regulations of the President.

(b) **CERTIFICATION.** By submitting this offer, the offeror, if a foreign person, company, or entity, certifies that it--

(1) Does not comply with the Secondary Arab Boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. Sec 2407(a) prohibits a United States person from taking.

(DFARS 252.212-7000, tailored)  
K1.05 (NOV 1995)